

E-FILED

SEP - 7 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WILLIE T. HILL,

Plaintiff,

v.

D. JONES,

Defendant.

No. C 05-03135 CW (PR)

ORDER DIRECTING PLAINTIFF TO FILE A
NOTICE OF INTENT TO PROSECUTE

Plaintiff, a state prisoner, filed the present pro se prisoner complaint under 42 U.S.C. § 1983.

On November 27, 2006, Plaintiff filed a request for an extension of time in which to file his opposition to Defendant's Motion for Summary Judgment. The Court noted that in the aforementioned letter, Plaintiff requested a "continuence [sic] until the 2nd week of June, [his] app. release date." He also asked for all communication to be sent to his mother. In an Order dated December 6, 2006, the Court granted his request and directed Plaintiff to file his opposition by December 29, 2006. Plaintiff did not file his opposition by the December 29, 2006 deadline.

In an Order dated June 12, 2007, the Court granted Plaintiff a second extension of time and directed him to file his opposition by July 9, 2007. The Clerk of the Court was directed to send a copy of Defendant's Motion for Summary Judgment along with a copy of the aforementioned Order to Plaintiff's mother's address and to his

1 physical address at the jail. To date, Plaintiff has not filed an
2 opposition to the motion for summary judgment.

3 On June 19, 2007, the mail directed to Plaintiff's physical
4 address at the jail was returned to the Clerk of the Court with a
5 notation that it was undeliverable.

6 Pursuant to Federal Rule of Civil Procedure 41(b), a district
7 court may sua sponte dismiss an action for failure to prosecute or
8 to comply with a court order. See Link v. Wabash R.R., 370 U.S.
9 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir.
10 1991). But such a dismissal should only be ordered when the
11 failure to comply is unreasonable. See id. A court should afford
12 the litigant prior notice of its intention to dismiss. See Malone
13 v. United States Postal Serv., 833 F.2d 128, 133 (9th Cir. 1987).
14 Pursuant to Northern District Local Rule 3-11 an attorney or party
15 proceeding pro se whose address changes while an action is pending
16 must promptly file and serve upon all opposing parties a notice of
17 change of address specifying the new address. See L.R. 3-11(a).
18 The court may, without prejudice, dismiss an action when: (1) mail
19 directed to the attorney or the pro se party by the court has been
20 returned to the court as not deliverable, and (2) the court fails
21 to receive within sixty days of this return a written communication
22 from the attorney or pro se party indicating a current address.
23 See L.R. 3-11(b).

24 It has now been more than sixty days since the mail was
25 returned as undeliverable. While the mail sent to Plaintiff's
26 mother's address was not returned as undeliverable, the Court has
27 never received any further communication from Plaintiff indicating
28 that he is still receiving mail through his mother's address.

1 Aside from his mother's address, the Court has not received a
2 notice from Plaintiff of his new physical address.

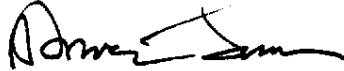
3 In light of the foregoing, Plaintiff shall inform the Court of
4 his continued intent to prosecute this action no later than fifteen
5 (15) days of the date of this Order. Failure to timely do so shall
6 result in dismissal of this action without prejudice under Federal
7 Rule of Civil Procedure 41(b) and Rule 3-11 of the Northern
8 District Local Rules.

9 The Clerk of the Court is directed to send a copy of this
10 Order to Plaintiff's only address on record, his mother's address,
11 as indicated below:

12 Gladys H. Anderson
13 1717 California Drive, Apt. 105
14 Vacaville, California 95687

15 IT IS SO ORDERED.

16 DATED: September 7, 2007

17 
18 ~~CLAUDIA NELSON~~ D. LOWELL JENSEN
19 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

HILL,

Plaintiff,

v.

JONES et al,

Defendant.

Case Number: CV05-03135 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 7, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Brendan Kenny
Andrada & Associates
180 Grand Avenue
Suite 925
Oakland, CA 94612

Willie T. Hill
C/O Gladys H. Anderson
1717 California Drive, Apt. 105
Vacaville, CA 95687

Dated: September 7, 2007

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk